

whereby said manual large game carrying device can be easily loaded, secured, raised, and transported.

**38.** The method of claim 37 wherein said upright rigid frame is constructed of a predetermined material.

#### **R E M A R K S – General**

By the above amendment, applicant has amended the title to emphasize the novelty of the invention.

Also, applicant has rewritten all claims to define the invention more particularly and distinctly so as to overcome the technical and drawing rejections and to define the invention patentably over the prior art.

#### **The Objection To The Claim Rejections Under § 102**

The last O.A. rejected independent claims 1, 10, and 19 on a foundation as being anticipated by “applicant’s” admission of “prior art” due to improper drafting of claim 1 in “Jepson format”. Claim 1 has been re-drafted as claim 21 in a different format. This is due to applicant’s previous drafting of claim 1 in “Jepson format” entirely backwards and wrong. This mistake of claim drafting in “Jepson format” isolated and invalidated all aspects of applicant’s invention because all elements and interconnections were revealed in the preamble that according to “Jepson format” is reserved only for any elements and their interconnections already known from “prior art”. Therefore, since all of the information of applicant’s invention was outlined in the preamble of the “Jepson format”

drafted claim1, it was mistakenly assumed that all aspects of the applicant's invention were "old and well known" due to applicant's inadequate drafting of claim 1 in "Jepson format". Applicant requests reconsideration of this rejection, which is the basis for additional rejection of independent claims 10 and 19 and all dependent claims thereafter for the following reasons:

(1) Claim 1 was written in "Jepson format" entirely backwards and wrong by applicant. This mistake defined all "structural, functional, and intended use limitations" of applicant's invention to be "old and well known" due to applicant's improper drafting of claim 1 in "Jepson format". This error in claim 1 drafting additionally defined independent claims 10 and 19 and all dependent claims thereafter as having the same objections and limitations as claim 1. These limitations thus defined additional independent claims 10 and 19 and all dependent claims thereafter as objectionable due to the "old and well known" limitations set forth by the mistakenly drafted claim 1 in "Jepson format" by the applicant.

#### **The Objection To The Claims Rejection Under § 103**

Applicant requests withdrawal of these objections because it is not legally justified to combine the references in the manner that is suggested.

#### **The Rejection Of Claims 1-8 And 10-18 On McGirl et al., U.S. Patent 2,284,333 In View Of Latta, U.S. Patent 5,195,394 Are Overcome.**

The last O.A. rejected claims 1-8 and 10-18 on McGirl, et al., U.S. Patent 2,284,333 in view of Latta, U.S. Patent 5,195,394. Claims 1-8 and 10-18 have been rewritten as new claims 21-28 and 29-36 to define patentably over these references, and any combination

thereof. Applicant requests reconsideration of these rejections, as now applicable to claims 21-36 for the following reasons:

- (1) There is no justification in McGirl in view of Latta, or in any other prior art separate from applicant's disclosure that suggests that these references be combined.
- (2) Even if McGirl in view of Latta were to be combined in the manner proposed, the proposed combination would not show all of the novel and unobvious physical features of claims 21 thru 36.
- (3) The novel and unobvious physical features of claims 21 thru 36 produce new and unexpected results and hence are unobvious and patentable over these references.
- (4) The applicant's invention solves a different problem than what McGirl's bicycle and Latta's bicycle handlebar extension approaches.
- (5) McGirl in view of Latta does not contain any suggestion that they be combined, or that they be combined in the manner suggested.

#### **The References And Differences Of The Present Invention Thereover**

Prior to discussing the claims and the above five points, applicant will first discuss the references and the general novelty of the present invention and its unobviousness over these references.

**McGirl** teaches a bicycle consisting of a frame, wheels, and a means for steering but fails to teach a means for slowing or stopping the wheels. Applicant teaches and constructs a manual large game carrying device consisting of a upright rigid frame with a substantially elongated upper receiving bar with a plurality of points of securement structurally attached to the substantially elongated receiving bar. Applicant teaches the designed upright rigid frame accommodates and secures large game at the structurally attached points of securement on the substantially elongated upper receiving bar (not constructed or shown on McGirl's bicycle). Applicant also teaches how rotatable wheels releasably mounted under the upright rigid frame are controllably slowed and stopped by means of a braking system utilized on applicant's invention. McGirl's bicycle cannot accommodate large game structurally nor can it structurally secure large game appropriately for lack of a substantially elongated upper receiving bar and no structurally attached points of securement. Further, McGirl's bicycle utilizes no means to slow or stop the wheels mounted to his bicycle. Therefore, McGirl's bicycle lacks the definitive features that the applicant's invention teaches to define novelty and unobviousness over this reference.

**Latta** teaches a bicycle handlebar extension that lacks the definitive design elements necessary for this type of device. Latta's device cannot be legally combined with McGirl's bicycle and if it were, the combination would still lack the structural design characteristics necessary for this type of device.

**McGirl And Latta Do Not Contain Any Justification To Support Their Combination, Much Less In The Manner Proposed**

With regard to the proposed combination of McGirl and Latta, it is well known that in order for any prior art references themselves to be validly combined for use in prior art §103 rejections, *the references themselves* (or some other prior art) **must** suggest that they be combined. E.g., as was stated in In re Sernaker, 217 U.S.P.Q. 1, 6 (C.A.F.C. 1983):

“[P]rior art references in combination do not make an invention obvious unless something in the prior art references would suggest the advantage to be derived from combining their teachings.”

That the suggestion to combine the references should not come from applicant was forcefully stated in Orthopedic Equipment Co. v. United States, 217 U.S.P.Q. 193, 199 (C.A.F.C. 1983):

“It is wrong to use the patent in suit [Application No. 10/717423, Applicant: Matthew Leroy Gomez] as a guide through the maze of prior art references, combining the right references in the right way to achieve the result of the claims in suit [claims 21-38]. Monday morning quarterbacking is quite improper when resolving the question of nonobviousness in a court of law [U.S.P.T.O.].”

As was further stated in Uniroyal, Inc. v. Rudkin-Wiley Corp., 5 U.S.P.Q.2d 1434 (C.A.F.C. 1988), “[w]here prior art references require selective combination by the court to render obvious a subsequent invention, there must be some reason for the combination other than the hindsight gleaned from the invention itself. . . . *Something in the prior art*

*must suggest the desirability and thus the obviousness of making the combination.”*

[Emphasis supplied.]

In line with these decisions, recently the Board stated in Ex parte Levengood, 28 U.S.P.Q.2d 1300 (P.T.O.B.A.&I. 1993):

“In order to establish a *prima facie* case of obviousness, it is necessary for the examiner to present *evidence*, preferably in the form of some teaching, suggestion, incentive or inference in the applied prior art, or in the form of generally available knowledge, that one having ordinary skill in the art *would have been led* to combine the relevant teachings of the applied references in the proposed manner to arrive at the claimed invention. ... That which is within the capabilities of one skilled in the art is not synonymous with obviousness. ... That one can *reconstruct* and/or explain the theoretical mechanism of an invention by means of logic and sound scientific reasoning does not afford the basis for an obviousness conclusion unless that logic and reasoning also supplies sufficient impetus to have led one of ordinary skill in the art to combine the teachings of the references to make the claimed invention. ... Our reviewing courts have often advised the Patent and Trademark Office that it can satisfy the burden of establishing a *prima facie* case of obviousness only by showing some objective teaching in either the prior art, or knowledge generally available to one of ordinary skill in the art, that ‘would lead’ that individual ‘to combine the relevant teachings of the references.’ ... Accordingly, an examiner cannot establish obviousness by locating references which describe various aspects of a patent



applicant's invention without also providing evidence of the motivating force which would impel one skilled in the art to do what the patent applicant has done."

In the present case, there is no reason given in the last O.A. to support the proposed combination, other than the statement "it is old and well known to utilize brakes on a front and rear wheel of a bicycle that are 'activated' by levers mounted on a bicycle handlebar". However the fact that one reference teaches a means to utilize brakes and the other reference does not is not sufficient to gratuitously and selectively substitute parts of one reference (Latta's bicycle handlebar extension) for a part of another reference (McGirl's bicycle) in order to meet applicants' novel claimed invention.

The O.A. noted (p. 6) that the combination of McGirl and Latta would perform what is claimed. Applicant submits that the fact that certain design criteria for transporting large game is not structurally met by McGirl's bicycle in combination with Latta's bicycle handlebar extension proves that applicant's claimed invention produces new and unexpected results and hence is unobvious in this field.

As stated in the above Levengood case,

"That one can *reconstruct* and/or explain the theoretical mechanism of an invention by means of logic and sound scientific reasoning does not afford the basis for an obviousness conclusion unless that logic and reasoning also supplies sufficient impetus to have led one of ordinary skill in the art to combine the teachings of the references to make the claimed invention.".

Applicant therefore submits that combining McGirl and Latta is not legally justified and is therefore improper. Thus applicant submits that the rejection on these references is also improper and should be withdrawn.

Applicant respectfully requests that if the claims are again rejected upon any combination of these references, that the Examiner include an explanation, in accordance with M.P.E.P. § 706.02, Ex parte Clapp, 27 U.S.P.Q. 972 (P.O.B.A. 1985), and Ex parte Levengood, *supra*, a “factual basis to support his conclusion that it would have been obvious” to make the combination.

**Even If McGirl And Latta Were To Be Combined In The Manner Proposed, The Proposed Combination Would Not Show All Of The Novel Physical Features Of Claims 21 Thru 38**

However, even if the combination of McGirl and Latta were legally justified, claims 21-38 would still have novel (and unobvious) physical features over the proposed combination. In other words, applicants' invention as defined by claims 21-38 comprises much more than merely substituting one handlebar configuration for another.

Specifically, clauses (a), (c), and (e) of claim 21 and 29 clearly distinguish applicants' manual large game carrying device from McGirl's bicycle and Latta's bicycle handlebar extension and any possible combination thereof, since these clauses recite:

**Independent claim 21**

“(a) a upright rigid frame having a substantially elongated upper receiving bar, ...

(c) a braking means to controllably stop or slow said plurality of rotatable wheels, ...

(d) a plurality of points of securement structurally attached to said substantially elongated upper receiving bar."

**Independent claim 29**

"(a) a upright rigid frame having a substantially elongated upper receiving bar, ...

(c) a braking means to controllably stop or slow said plurality of rotatable wheels, ...

(d) a means of securement to secure large game to said substantially elongated upper receiving bar of said upright rigid frame."

Neither McGirl nor Latta show these features because neither of their systems address the required design considerations needed for large game carrying device design. Applicant's manual large game carrying device does this.

By addressing required design considerations, applicant's manual large game carrying device of clause (a) of both claim 21 and 29 constructs the upright rigid frame with a substantially elongated upper receiving bar, a feature that is missing in bicycle designs such as that of McGirl. This design is necessary for proper clearance of wheels and securement of large game to the manual large game carrying device. Clause (c) of both claim 21 and 29 clearly define over McGirl's bicycle because McGirl's bicycle teaches no means to stop or slow the wheels, a design requirement essential for these types of devices. Neither McGirl's bicycle nor Latta's bicycle handlebar extension address this problem directly as does applicant's manual large game carrying device. Clause (e) of both claim 21 and 29 also clearly distinguish over McGirl's bicycle and Latta's bicycle handlebar extension since the upright rigid frame has a plurality of points of securement

structurally attached to the substantially elongated upper receiving bar. Neither McGirl's bicycle nor Latta's bicycle handlebar extension alone or in combination with each other feature a plurality of points of securement structurally attached to a substantially elongated upper receiving bar, a design characteristic extremely important for this type of device. McGirl's bicycle lacks the proper functional frame design elements needed to accommodate large game as well as lacks any proper way to secure and hold large game to his bicycle.

As stated above, McGirl's bicycle does not utilize any of the structural design considerations required for this type of large game carrying device. Therefore, he cannot have any assurance that since lacking such important structural necessities that his device can be used as stated above, even in combination with other devices such as Latta's bicycle handlebar extension.

Thus applicant submits that the invention is much more than merely combining one device with another and that claims 21 thru 38 clearly recite novel physical subject matter which distinguishes over any possible combination of McGirl's bicycle with Latta's bicycle handlebar extension.

**The Novel Physical Features Of Claims 21 Thru 38 Produce New And Unexpected Results And Hence Are Unobvious And Patentable Over These References Under § 103**

Applicant also submits that the novel physical features of claim 21 thru 38 are also unobvious and hence patentable under § 103 since they produce new and unexpected results over McGirl's bicycle and Latta's bicycle handlebar extension, or any combination thereof.

These new and unexpected results are the ability of the applicant's manual large game carrying device to easily accommodate and secure large game to the substantially elongated upper receiving bar by means of a plurality of points of securement structurally attached to the substantially elongated upper receiving bar. This in turn results in ease of loading and transporting large game as well as ease of maneuvering and slowing or stopping the loaded manual large game carrying device over various terrain. Therefore, applicant's manual large game carrying device is vastly superior to that of McGirl's bicycle and Latta's bicycle handlebar extension and any possible combination thereof. The novel and unobvious features of applicant's device are, as stated, clearly recited in claims 21 thru 38.

**Applicant's Invention Solves A Different Problem Than What McGirl's Bicycle and Latta's Bicycle Handlebar Extension Approaches**

Applicant also submits that the novel and physical features of claim 21 thru 38 solves a different problem than what McGirl's bicycle and Latta's bicycle handlebar extension approach. Applicant's invention contains elements structurally designed for transporting and accommodating large game. Structural points of securement and a substantially elongated upper receiving bar are just some of the physical characteristics necessary for this type of device. Thus, McGirl teaches of a bicycle that lacks any of the definitive physical characteristics and structural elements needed to carry large game. Thus McGirl's bicycle may be adequate for the purpose of transporting a rider, the purpose for which it was designed, but it is not at all adequate for the purpose of transporting large game, an entirely different process than transporting a rider. McGirl's bicycle lacks extremely important and necessary design considerations needed such as a braking

means, structural points of securement, and a substantially elongated upper receiving bar, to name a few. For these reasons, it is not feasible that McGirl's bicycle can transport large game properly on his *bicycle*.

Thus applicant submits that the novel physical features of applicant's invention solve a problem not recognized or solved by McGirl's bicycle or Latta's bicycle handlebar extension but rather produces new and unexpected results for solving the problem of transporting large game.

***The Rejection Of Claims 21 Thru 38 On Reynolds U.S. Patent 404,562 In View Of Latta U.S. Patent 5,195,394 Are Overcome***

The last O.A. rejected claims 1 thru 20 on Reynolds U.S. Patent 404,562 in view of Latta U.S. Patent 5,195,394. Independent claims 2 thru 9 and 11 thru 17 have been rewritten as claims 22 thru 28 and 30 thru 36 to define patentably over these references and any combination thereof. Applicant requests reconsideration of this rejection, as now applicable to claims 21 thru 38 for the following reasons:

- (1) There is no justification in Reynolds and Latta or in any other prior art separate from applicant's disclosure which suggests that these references be combined, much less be combined in the manner proposed.
- (2) The prior art reference of Reynolds is very poor since it is a very old (1889) reference, therefore it should be construed very narrowly in combination with Latta (1993).

(3) The combination of Latta's invention (1993) with Reynolds (1889) is not feasible since it would be necessary to make extreme modifications *not taught* in the prior art in order to combine these references in the manner suggested.

(4) Even if Reynolds (1889) and Latta (1993) were to be combined, the references would not meet the claims for lacking novel and unobvious physical characteristics.

#### **The References And Differences Of The Present Invention Thereover**

Prior to discussing the claims and the above four points, applicant will first discuss the references and the general novelty of the present invention and its unobviousness over these references.

Reynolds constructs an extremely old (1889) bicycle consisting of a *very old* frame design, wheels, a means for steering, and an extremely *archaic* braking system. Applicant teaches and constructs a manual large game carrying device consisting of an upright rigid frame with a substantially elongated upper receiving bar with a plurality of points of securement structurally attached to the substantially elongated receiving bar. Applicant teaches the designed upright rigid frame accommodates and secures large game at the structurally attached points of securement on the substantially elongated upper receiving bar (not constructed or shown on Reynolds' bicycle). Applicant also teaches how rotatable wheels releasably mounted under the upright rigid frame are controllably slowed and stopped by means of a braking system utilized on applicant's invention. Reynolds' bicycle cannot accommodate large game structurally nor can it structurally secure large game appropriately for lack of a substantially elongated upper

receiving bar and no structurally attached points of securement. Further, Reynolds' bicycle utilizes a *very old* braking system that engages the front tire directly, a critical flaw unacceptable for this type of device. Therefore Reynolds' bicycle lacks the definitive features that the applicant's invention teaches to define novelty and unobviousness over this reference.

**Latta** teaches a bicycle handlebar extension that lacks the definitive design elements necessary for this type of device. Latta's device cannot be legally combined with Reynolds' bicycle and if it were, the combination would still lack the structural design characteristics necessary for this type of device.

**Reynolds And Latta Do Not Contain Any Justification To Support Their Combination, Much Less In The Manner Proposed**

With regard to the proposed combination of Reynolds and Latta, it is well known that in order for any prior art references themselves to be validly combined for use in prior art §103 rejection, *the references themselves* (or some other prior-art) **must** suggest that they be combined. E.g., as was stated in In re Sernaker, 217 U.S.P.Q. 1, 6 (C.A.F.C. 1983):

“[P]rior art references in combination do not make an invention obvious unless something in the prior art references would suggest the advantage to be derived from combining their teachings.”

That the suggestion to combine the references should not come from applicant was forcefully stated in Orthopedic Equipment Co. v. United States, 217 U.S.P.Q. 193, 199 (C.A.F.C. 1983):

“It is wrong to use the patent in suit [Application No. 10/717,423, Applicant: Matthew Leroy Gomez] as a guide through the maze of prior art references, combining the right references in the right way to achieve the result of the claims in suit [claims 21-38]. Monday morning quarterbacking is quite improper when resolving the question of nonobviousness in a court of law [U.S.P.T.O.].”

As was further stated in Uniroyal, Inc. v. Rudkin-Wiley Corp., 5 U.S.P.Q.2d 1434 (C.A.F.C. 1988), “[w]here prior art references require selective combination by the court to render obvious a subsequent invention, there must be some reason for the combination other than the hindsight gleaned from the invention itself. . . . *Something in the prior art must suggest the desirability and thus the obviousness of making the combination.*”

[Emphasis supplied.]

In line with these decisions, recently the Board stated in Ex parte Levengood, 28 U.S.P.Q.2d 1300 (P.T.O.B.A.&I. 1993):

“In order to establish a *prima facie* case of obviousness, it is necessary for the examiner to present *evidence*, preferably in the form of some teaching, suggestion, incentive or inference in the applied prior art, or in the form of generally available knowledge, that one having ordinary skill in the art *would have been led* to combine the relevant teachings of the applied references in the proposed manner to arrive at the claimed invention. . . . That which is within the capabilities of one skilled in the art is not synonymous with obviousness. . . . That one can *reconstruct* and/or explain the theoretical mechanism of an invention by means of logic and sound scientific reasoning does not afford the basis for an



obviousness conclusion unless that logic and reasoning also supplies sufficient impetus to have led one of ordinary skill in the art to combine the teachings of the references to make the claimed invention. ... Our reviewing courts have often advised the Patent and Trademark Office that it can satisfy the burden of establishing a *prima facie* case of obviousness only by showing some objective teaching in either the prior art, or knowledge generally available to one of ordinary skill in the art, that 'would lead' that individual 'to combine the relevant teachings of the references.' ... Accordingly, an examiner cannot establish obviousness by locating references which describe various aspects of a patent applicant's invention without also providing evidence of the motivating force which would impel one skilled in the art to do what the patent applicant has done."

In the present case, there is no reason given in the last O.A. to support the proposed combination, other than the statement "it is old and well known to utilize brakes on a front and rear wheel of a bicycle that are 'activated' by levers mounted on a bicycle handlebar". However the fact that one reference teaches a means to utilize brakes and the other reference does not is not sufficient to gratuitously and selectively substitute parts of one reference (Latta's bicycle handlebar extension) for a part of another reference (Reynolds' *extremely old* bicycle) in order to meet applicants' novel claimed invention.

The O.A. noted (p. 7) that the combination of Reynolds and Latta would perform what is claimed. Applicant submits that the fact that certain design criteria for transporting large game is not structurally met by Reynolds' *very old* bicycle in combination with Latta's

bicycle handlebar extension proves that applicant's claimed invention produces new and unexpected results and hence is unobvious in this field.

As stated in the above Levengood case,

"That one can *reconstruct* and/or explain the theoretical mechanism of an invention by means of logic and sound scientific reasoning does not afford the basis for an obviousness conclusion unless that logic and reasoning also supplies sufficient impetus to have led one of ordinary skill in the art to combine the teachings of the references to make the claimed invention."

Applicant therefore submits that combining Reynolds' *extremely old* bicycle and Latta's bicycle handlebar extension is not legally justified and is therefore improper. Thus applicant submits that the rejection on these references is also improper and should be withdrawn.

Applicant respectfully requests that if the claims are again rejected upon any combination of these references, that the Examiner include an explanation, in accordance with M.P.E.P. § 706.02, Ex parte Clapp, 27 U.S.P.Q. 972 (P.O.B.A. 1985), and Ex parte Levengood, *supra*, a "factual basis to support his conclusion that it would have been obvious" to make the combination.

**The Prior Art Reference Of Reynolds Is Very Poor Since It Is A Very Old (1889) Reference, Therefore It Should Be Construed Very Narrowly In Combination With Latta (1993)**

Reynolds teaches a device that was constructed *over a century* ago for the purpose of transporting riders. This device constructed *over 100 years* ago lacks the novel and

unobvious physical characteristics utilized on applicant's invention necessary for transporting large game. Reynolds' bicycle was designed for transporting riders of generations past and does not possess the characteristics critical for transporting large game. This is evident from its very old frame design, very old *archaic* braking system, and very old structural components that make up Reynolds' device.

The fact that Reynolds' device is *over a century* old and lacks all of the novel and unobvious physical characteristics of applicant's invention (substantially elongated upper receiving bar, solid upright rigid frame, structurally attached points of securement to the substantially elongated upper receiving bar, a proper braking system, etc.) is proof that combining Reynolds' *very old* bicycle with Latta's bicycle handlebar extension of *(1993)* is not feasibly possible since almost 100 years separate each invention. Therefore, applicant submits that Reynolds' bicycle is too old and does not possess any of the novel and unobvious physical characteristics used on applicant's invention. Thus Reynolds' bicycle should be construed very narrowly if at all in comparison to applicant's invention.

**The Combination Of Latta's Invention *(1993)* With Reynolds' *(1889)* Is Not Feasible Since It Would Be Necessary To Make Extreme Modifications Not Taught In The Prior Art In Order To Combine The References In The Manner Suggested**

The fact that Latta's bicycle handlebar extension was taught in *(1993)* and Reynolds' bicycle was taught in *(1889)* dictate that extreme modifications would have to be made to each device to combine the two. This is a fact evident by the advances of technology and material workmanship from the year *(1889)* in which Reynolds' bicycle was developed to the year *(1993)* in which Latta's bicycle handlebar extension was developed. To a person of ordinary skill in the art, it is a fact that extreme modifications would have to be

implemented to combine these two devices. Metal material, handlebar characteristics, handlebar attachment points, brake placement, brake type, wheel placement, and frame design are just some of the extreme modifications that need consideration before these two devices could *possibly* be combined. Thus applicant submits that claims 21 thru 38 define patentably over Reynolds' *very old* bicycle in view of Latta's bicycle handlebar extension because extreme modifications (*not taught in the prior art*) would need to be addressed before any combination (*not legally justified*) could possibly occur between these devices. Thus applicant submits that the proposed combination would not be physically possible and would still not contain all of the novel and unobvious physical characteristics possessed by applicant's invention.

**Even If Reynolds (1889) and Latta (1993) Were To Be Combined, The References Would Not Meet The Claims For Lacking Novel And Unobvious Physical Characteristics**

If Reynolds' *very old* bicycle and Latta's bicycle handlebar extension were combined (*not legally justified*), the ensuing device would still lack many novel and unobvious physical characteristics utilized on applicant's invention. Reynolds' *very old* bicycle and Latta's bicycle handlebar extension if combined (*not legally justified*) would lack the unobvious and novel substantially elongated upper receiving bar, a plurality of points of securing structurally attached to the substantially elongated upper receiving bar, and a proper braking system to name a few (design elements found on applicant's manual large game carrying device). Thus applicant submits that if combined (*not legally justified*), Reynolds' *very old* bicycle and Latta's bicycle handlebar extension would lack all novel and unobvious physical characteristics found on applicant's invention.

**The Dependent Claims Are A Fortiori Patentable Over McGirl, Reynolds, And Latta**

New dependent claims 22-28 and 30-36 incorporate all of the subject matter of independent claims 21, 29, and 37 add additional subject matter that makes them a fortiori and independently patentable over these references.

The last O.A. stated that McGirl “teaches a bicycle style large game carrying device” that consists of a rigid frame, wheels, and a means for steering the bicycle. The last O.A. also stated that this bicycle secures a load by a *hole* in the rigid frame and *fails* to teach a means to slow or stop the bicycle. The last O.A. also stated that if Latta’s bicycle handlebar extension were combined with McGirl’s bicycle, the brakes would allow a *rider* to slow or stop the bicycle. These are important and significant structural differences between the bicycle of McGirl and applicant’s manual large game carrying device. Therefore, applicant requests reconsideration that “. . . the prior art structure is capable of performing the function or intended use” since applicant submits the facts that applicant’s invention is (a) novel, (b) produces valuable new, improved, and unexpected results, and (c) applicant’s invention possesses extremely important structural differences needed for this device, characteristics completely lacking in both McGirl’s bicycle and Latta’s bicycle handlebar extension.

Claim 23 states that the rotatable wheels are releasably mounted to the upright rigid frame. Neither McGirl’s bicycle nor Latta’s bicycle handlebar extension utilize this important structural design in their devices.

Claims 24 and 31 state that the rotatable wheel releasably mounted to the front fork axle assembly on the forward side of the upright rigid frame is conveniently released rather than by disassembly as is done on McGirl's bicycle. Neither McGirl's bicycle nor Latta's bicycle handlebar extension utilize this important structural design on their devices. McGirl's wheel is released by disassembly of the bicycle, which is not structurally acceptable for this type of device.

Claims 25-26 and 32-33 state that the wheel that is releasably mounted to the front fork axle assembly is used to turn and steer the large game carrying device. The steering means used on McGirl's bicycle lacks specific design elements utilized on applicant's manual large game carrying device. McGirl's steering means lacks any braking devices, extension capabilities allowing for clearance, and specific structural characteristics needed for this type of device. Latta's bicycle handlebar extension cannot be legally combined with McGirl's bicycle, and even if they were combined they would still lack specific important structural characteristics necessary for proper operation of this type of device.

Claims 27-28 and 34-35 state that the braking means engages the rotatable wheels from the lever, linkage, and brake system utilized on applicant's invention. McGirl does not utilize any braking system with his bicycle and cannot be legally combined with Latta's bicycle handlebar extension. Even if these two devices were combined, important structural elements would still be missing, critical for proper operation of this type of device.

Claim 36 states that the means of securement consists of a plurality of points of securement structurally attached to the substantially elongated upper receiving bar. These are extremely important and necessary structural elements needed for proper securement, accommodation, and transport of large game. McGirl's bicycle cannot properly secure large game to its frame by the *hole* that is formed, and due to varying size and proportion of large game, proper securement at varying points that will not move during transport over various terrain is essential (characteristics not found on McGirl's bicycle). These structural characteristics of applicant's manual large game carrying device are extremely important for the proper accommodation (substantially elongated upper receiving bar), securement (plurality of points of securement), and transport of large game, elements completely missing on McGirl's bicycle even if combined with Latta's bicycle handlebar extension (not legally justified).

The last O.A. stated that Reynolds "teaches a bicycle style large game carrying device" that consists of a *two part* rigid frame, wheels, steering means, and an archaic braking means of the front wheel. The last O.A. also stated that Reynolds bicycle *does not* teach a means to slow or stop the rear wheel. The last O.A. also stated that if Latta's bicycle handlebar extension were combined with Reynolds' bicycle, the brakes would be advantageous over Reynolds' because of the wear that is incurred on its front tire due to Reynolds' extremely old braking system design. Reynolds' *very old* bicycle and Latta's bicycle handlebar extension cannot be legally combined and the fact that there is approximately 100 years between these two devices, it is not structurally reasonable to combine them in the manner proposed. Therefore, applicant requests reconsideration that ". . . the prior art structure is capable of performing the function or intended use" since

applicant submits the facts that applicant's invention is (a) novel, (b) produces valuable new, improved, and unexpected results, and (d) applicant's invention possesses structural differences necessary for this type of large game carrying device, elements not utilized in Reynolds' *very old* archaic bicycle and Latta's bicycle handlebar extension.

Claim 23 states that the rotatable wheels are removably mounted to the upright rigid frame. Neither Reynolds' *very old* bicycle or Latta's bicycle handlebar extension utilize this important structural design in their devices. Reynolds' wheel is released by disassembly, which is an unacceptable design for this type of device. Reynolds' device is also extremely old and does not incorporate specific design elements needed for this type of device.

Claims 24 and 31 state that the rotatable wheel releasably mounted to the front fork axle assembly on the forward side of the upright rigid frame is released conveniently rather than by disassembly as is done on Reynolds' *very old* bicycle. Neither Reynolds' *very old* bicycle or Latta's bicycle handlebar extension utilize this important structural design. Reynolds' front wheel can only be released by disassembly of the device, which is not structurally acceptable.

Claims 25-26 and 32-33 state that the wheel that is releasably mounted to the front fork axle assembly is used to turn and steer the large game carrying device. The steering means used on Reynolds' *very old* device is extremely archaic and lacks the specific design characteristics found on applicant's invention. Reynolds' steering means lacks any braking devices, extension capabilities allowing for clearance, and specific structural characteristics needed for this type of device. Latta's bicycle handlebar extension cannot

be legally combined with Reynolds' *very old* bicycle, but if combined, the ensuing device would still lack extremely important structural characteristics needed for this type of device. Since approximately 100 years exist between these two devices, it is not feasibly possible to combine these devices in the manner suggested due to the extreme modifications that would need to be done.

Claims 27-28 and 34-35 state that the braking means engages the rotatable wheels from the lever, linkage, and brake system utilized on applicant's invention. Reynolds' *very old* bicycle does not utilize a braking system other than an extremely archaic configuration that was used over a *century* ago. This type of braking system stops the wheel directly by applying the braking means directly to the surface of the tire. This system is not even an option today, and if combined with Latta's bicycle handlebar extension (not legally justified) extreme modifications would have to be done to both devices and it still would not meet all of the novel and unobvious physical characteristics seen on applicant's invention.

Claim 36 states that there are a plurality of points of securement structurally attached to the substantially elongated upper receiving bar. These are extremely important and necessary structural elements needed for proper securement and transport of large game. Reynolds' *extremely old* bicycle cannot properly secure any large game to his bicycle due to his *very old* bicycle's very awkward frame design. Due to varying size and proportion of large game, proper securement at varying points that will not move during transport over various terrain is essential (characteristics not found on Reynolds' *very old* bicycle). The structural characteristics utilized on applicant's manual large game carrying device

are extremely important for the proper accommodation (substantially elongated upper receiving bar), securement (plurality of points of securement), and transport of large game, elements completely missing on Reynolds' *very old* bicycle even if combined with Latta's bicycle handlebar extension (not legally justified).

Accordingly applicant submits that the dependent claims are a *fortiori* patentable and should also be allowed.

### **Conclusion**

For all of the above reasons, applicant submits that the specification and claims are now in proper form, and that the claims all define patentably over the prior art. Therefore applicant submits that this application is now in condition for allowance, which action applicant respectfully solicits.

### **Conditional Request For Constructive Assistance**

Applicant has amended the specification and claims of this application so that they are proper, definite, and define novel structure which is also unobvious. If, for any reason this application is not believed to be in full condition for allowance, applicant respectfully requests the constructive assistance and suggestions of the Examiner pursuant to M.P.E.P. § 2173.02 and § 707.07 (j) in order that the undersigned can place this application in allowable condition as soon as possible and without the need for further proceedings.

Very respectfully,

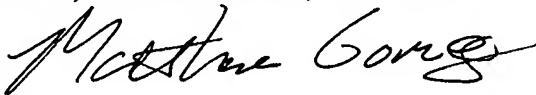


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**Certificate Of Mailing:** I certify that on the date below this document and referenced attachments, if any, will be deposited with the U.S. Postal Service as first class mail in an envelope addressed to: "BOX NON-FEE AMENDMENTS, ASSISTANT COMMISSIONER FOR PATENTS, WASHINGTON, DC 20231."

2005 Jan 05



**Attachment: Appendix to Amendment A With Replacement Paragraphs Marked-Up to Indicate Changes**



## Appendix to Amendment A

### With Replaceent Paragraphs Marked-Up to Indicate Changes

Commissioner for Patents

Washington, DC 20231

Sir:

Pursuant to Rule 121, the following is a copy of all of the paragraphs amended by the attached Amendment A, with all changes indicated by bracketing deletions and underlining additions:

*Page 2, last two sentences - first paragraph, replace with the following new sentences:*

- Also, Brown-Brown-Cochran-Reinsten's large game carrying device cannot be easily [manipulated] maneuvered with loaded large game due to [the] its extremely unbalanced nature [of the device] when loaded and transported [on] over irregular surfaces. This is due to the fact [of] that its wheelbarrow carriage type design [that] is inadequate for narrow trails, sloped surfaces, and other obstacles often found in remote hunting areas.

*Page 3, first paragraph – second sentence, replace with the following new sentence:*

- Thompson's large game carrying device also cannot be easily transported due to [the] its unbalanced nature [of the device] when loaded and transported over irregular surfaces.

*Page 3, second paragraph – first sentence, replace with the following new sentence:*

- Although the collapsible, ground-supportable, manual transport carrier and the manual pull-type carrier can be used to transport large game from the hunting

area, they simply do not possess the critical design elements essential for ease of use when transporting large game great distances on narrow trails and rugged terrain.

Page 3, second paragraph – second sentence, replace with the following new sentence:

- Also, if any fastener, self-locking pin or connectable part used [in] on these types of large game carrying devices is either lost, damaged, misplaced, or forgotten, these types of large game carrying devices would be rendered useless to the hunter in the hunting field.

Page 3, third paragraph – first sentence, replace with the following new sentence:

- Another type of large game carrying device has been proposed – for example, in patent 3,907,323 to Knapp-Knapp (1975) [is] consists of a design that conforms to the familiar types of large game carrying devices already known in the prior art.

Page 4, first paragraph – first sentence, replace with the following new sentence:

- Basically, all large game carrying devices conform to a familiar, expected, and obvious structural configuration encompassed by all prior art and the previous patents stated.

Page 4, first paragraph – second to last sentence, replace with the following new sentence:

- Also, in order to provide the requisite strength needed for each large game carrying device, relatively thick or large parts could be used in [its] their construction rendering the large game carrying device heavier or larger than necessary (often the case).

Page 4, second paragraph – first sentence, replace with the following new sentence:

- The fact that [a] many collapsible large game carrying devices as shown by [the] prior art [has] have many of the shortcomings previously stated, stresses the fact that these types of large game carrying devices are inconvenient to assemble and use.

Page 4, second paragraph – second sentence, replace with the following new sentence:

- This is due to the fact that a relatively high degree of coordination is needed to construct these large game carrying devices as well as a high degree of care taken [not to] to not lose any excessive component or damage any extraneous part.

Page 6, letter (e) – last sentence, replace with the following new sentence:

- Thus, if any of these extra components are misplaced, lost, forgotten, or damaged in any way, the large game carrying device would not be [securely] properly constructed if constructed at all.

Page 7, first true paragraph on page – last sentence, replace with the following new sentence:

- Additional shortcomings consist of wheel size being too small to successfully maneuver over boulders, logs, and root systems, as well as corresponding wheel bases [accommodating] that can't accommodate trail width whereby throwing an already unbalanced large game carrying device even more off balance, exponentially increasing the work done by the hunter.

Page 8, letter (h), replace with the following new sentence if letter (h):

- to provide a large game carrying device that allows the hunter to adjust the loaded large game [carrier] carrying device's center of gravity rather than fight the constantly unbalanced designs of prior art large game carrying devices;

Page 10, SUMMARY, replace with the following new summary:

- In accordance with the present invention, a [bicycle style] manual large game carrying device comprised of an upright rigid frame, rotatable wheels mounted there-under, a controllably stoppable [of] braking means that engages these rotatable wheels, a turning means such as a handlebar configuration that engages the front rotatable wheel and turns the [bicycle style] manual large game carrying device, [and a bracing means that secures large game to the bicycle style large game carrying device] and a securing means that secures large game to the substantially elongated upper receiving bar by a plurality of structurally attached points of securing.

Page 11, DETAILED DESCRIPTION, first paragraph – second sentence (extends to page 12), replace with new sentence:

- The [bicycle style] manual large game carrying device has a solid rigid frame that consists of a [upper rigid frame] substantially elongated upper receiving bar 30, an attached angled frame bar 34 and an attached rear angled frame bar 36.

Page 12, first sentence that begins on page 12, replace with sentence:

- To secure large game to the [bicycle style] manual large game carrying device, [tie down bracing mounts] points of securing 32 are attached to the [upper rigid frame] substantially elongated upper receiving bar 30 to allow the quick and efficient securing of large game to the [bicycle style] manual large game carrying device.

Page 12, third sentence, replace with sentence:

- This handlebar configuration **22** [thus] turns the front fork axle assembly **20** that is attached to the front wheel **10A** by a releasable front axle **12** thus turning the front wheel **10A** and turning the [bicycle style] manual large game carrying device.

Page 14, second paragraph – fourth sentence, replace with sentence:

- If the hunter feels the loaded [bicycle style] manual large game carrying device is moving too fast or could change direction by possibly rolling backwards, all he or she would have to do would be to depress the braking mechanism levers **26**.

Page 15, first paragraph – second sentence, replace with sentence:

- This design not only allows the hunter to have control over how much braking is used, but [has] also the extreme advantage of not having to lift any part of the [bicycle style] manual large game carrying device during transportation.

Page 15, under Advantages, first letter (a), replace with new example (a):

- [The] This design being free of any attachable extraneous part such as transport handles, locking arms, adjustable handles, and towing arms [decreases the possibility of possibly misplacing, losing, forgetting, or damaging the attachable part] cannot be rendered useless to a hunter as prior art large game carrying devices are when these parts are lost, damaged, stolen, or forgotten.

Page 16, letter (h), replace with new (h):

- This design allows a hunter to easily secure large game to the [bicycle style] manual large game carrying device by conveniently placed [tie down bracing

mounts.] points of securement structurally attached to the substantially elongated upper receiving bar.

Page 18, second paragraph – sentence four, replace with new sentence:

- This skewed weight to one area or another greatly enhances the already unbalanced effect, dramatically increasing the work done during transport.

Page 18, second paragraph – sentence eight, replace with new sentence:

- [These] The lifting forces [as well as] and extreme balancing efforts are a few of the shortcomings that make extrication of large game much more difficult for the hunter in rugged and remote terrain.

Page 20, last emphasis dot first item on page 20, replace emphasis dot sentence with:

- It provides a design that eliminates [the] any lifting force during transport of the [bicycle style] manual large game carrying device, greatly decreasing overall work exerted by the hunter.